



**JACKSONVILLE STATE UNIVERSITY  
BOARD OF TRUSTEES EMERGENCY MEETING  
MINUTES**

The Board of Trustees of **Jacksonville State University** held an emergency called meeting on Tuesday, June 23, 2020, commencing at 10:00 am. Due to the Covid-19 pandemic guidelines issued by the Governor of the State of Alabama, the meeting was held virtually via Zoom.

**CALL TO ORDER**

Presiding Chair Jones provided a welcome to those in attendance and recognized Mrs. Kristi Killingsworth; Dr. Russell Hammock, Faculty Senate President; Mr. Jerod Sharp, Student Government Association President; Trustee Emeritus Jamie “Red” Etheredge and former Trustee, Mr. Bob Kennamer. Trustee Figures offered the invocation.

**ROLL CALL AND DECLARATION OF QUORUM**

Dr. Don Killingsworth, Acting President, and Board Secretary called the roll and confirmed the following board members were present, either in person or via Zoom.

Mr. Randall E. Jones, Chairman  
 Mr. Greg Brown (Zoom)  
 Mr. Clarence Daugette, III (Zoom)  
 Senator Vivian Davis Figures  
 Mr. Rusty Fuller (Zoom)  
 Mr. Tony L. Ingram (Zoom)  
 Mr. Drew Linn (Zoom)  
 Mrs. Gale Saxon Main (Zoom dial-in)  
 Mr. Randy Y. Owen  
 Mr. Anthony A. Smoke  
 Mr. Jerod Sharp, Student Government Association  
 Dr. Michael Boynton, Faculty Senate President

A quorum was present to conduct business. Absent was ex officio member Governor Kay Ivey.

## EXECUTIVE SESSION

A motion was made by Chairman Jones and seconded by Trustee Owen that the Board enter a closed session. Chairman Jones presented a statement from Mr. Sam Monk, University Counsel, who certified the Executive Session necessary to discuss the good names of individuals, or pending litigation and controversies not currently being litigated, but likely to be litigated if the Board takes a proposed course of action.

The Chairman called for a Roll Call vote. Dr. Killingsworth called roll for voting to approve the executive session. The following persons voted:

Chairman Randall E. Jones	Yes
Mr. Greg Brown	Yes
Mr. Clarence Dauge, III	Yes
Senator Vivian Davis Figures	Yes
Mr. Rusty Fuller	Yes
Mr. Tony L. Ingram	Yes
Mr. Randy Y. Jones	Yes
Mr. Drew Linn	Yes
Mrs. Gale Saxon Main	Yes
Mr. Anthony Smoke	Yes

**Chairman Jones reported a unanimous vote for the Executive Session and stated that the Board members would return for a public vote on any actionable items.**

## ACTIONS TAKEN AS A RESULT OF THE EXECUTIVE SESSION

Upon returning from Executive Session, Chairman Jones reported that the Board had several action items to be approved.

Mr. Jim Brigham, Sr. Vice President for Finance and Administration, announced that a settlement had been reached with the State Insurance Fund on Wallace Hall and that he is very pleased with the settlement. He stated that the Board of Trustees had been updated on the details of the agreement.

**Trustee Smoke made a motion to authorize Dr. Killingsworth to execute the settlement documents. It was seconded by Trustee Owen and approved unanimously by the Board.**

Mr. Sam Monk, JSU Legal Counsel, presented the following Resolution for the Board's consideration. **Trustee Figures made a motion to adopt the Freedom of Speech Resolution. It was seconded by Trustee Smoke and approved unanimously by the Board.**

**RESOLUTION 618**

### **RESOLUTION OF THE BOARD OF TRUSTEES OF JACKSONVILLE STATE UNIVERSITY**

**WHEREAS,** The Board of Trustees finds that free speech is vitally important in providing a well-rounded education and is fundamental to the success of the university by ensuring that all students and faculty be allowed to fully and responsibly practice and promote freedom of expression and inquiry; and,



**WHEREAS**, the Constitution of Alabama 1901, Article I, Section 4, states, “That no law shall ever be passed to curtail or restrain the liberty of speech or of the press; and any person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.”

**WHEREAS**, the Alabama Legislature, in recognizing that public universities are peculiarly the marketplace of ideas where young adults learn to exercise those constitutional rights necessary to participate in our system of government and to tolerate the exercise of those rights by others; that freedom of expression is critically important during the educational experience of students; that each public institution of higher education should ensure free, robust, and uninhibited debate and deliberation by students; and that as a matter of statewide concern, all public institutions of higher education must provide adequate safeguards for the First Amendment rights of students and faculty, and promote, protect, and uphold these important freedoms through the re-examination, clarification, and re-publication of their policies to ensure the fullest degree possible of intellectual and academic freedom and free expression (Act 2019-396).

**THEREFORE, BE IT RESOLVED**, the Board of Trustees in exercise of its policy-making powers and responsibilities does hereby promulgate the following “Policy Related to Campus Use and Protection of Free Speech.”

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Jacksonville State University  
Board of Trustees Policy  
Related to Campus Use and Protection of Free Speech  
(As Required by Act 2019-396, Alabama Legislature)

### **PURPOSE**

The campus grounds, properties and facilities of Jacksonville State University (hereinafter the “University” or “JSU”) are devoted to and maintained for the purpose of providing higher education to students and for use and enjoyment of the campus community and are not places of unrestricted or unregulated public access. As such, by this policy, the University reasserts the right to properly govern access to and the use of its property in such a way as to protect students, faculty, staff and persons lawfully on or using university facilities, as well as for the protection and preservation of institutional assets.

The University, however, is committed to protecting the free speech rights of students, faculty, staff, and invited guests. The purpose of this policy is to respect the Campus Community’s rights to free speech and expressive activity while preserving public health, safety, and welfare; the normal educational and business uses of the campus; protecting University property; and safeguarding the rights of others to legitimately use and enjoy the campus.

While the University will not regulate the content of lawful speech, assembly or related activity, the University may regulate the time, place, and manner of free speech and expressive activities in order to prevent unreasonable interference with or disruption of its educational and business functions, normal or scheduled uses of University property by the Campus Community, as well as to protect public health, safety, and welfare.

### **DEFINITIONS**

The following definitions apply to this policy:

1. **BENEFIT**. Recognition, registration, the use of facilities of the University for meetings or speaking purposes, the use of channels of communications, and funding sources that are available to student organizations at the University.
2. **CAMPUS COMMUNITY**. The students, administrators, faculty, and staff, as well as the invited guests of the University and its student organizations, administrators, faculty, and staff.
3. **FREE SPEECH ZONE**. An area on the University’s campus designated for the purpose of engaging in a protected expressive activity.



4. **HARASSMENT.** Expression, whether speech or conduct, that is so severe, pervasive, and objectively offensive that it effectively denies another access to an educational opportunity or benefit provided by the University.

5. **MATERIALLY AND SUBSTANTIALLY DISRUPTS.** A disruption that occurs when a person:

a.) significantly hinders the protected expressive activity of another person or group, prevents the communication of a message of another person or group, or prevents the transaction of the business of a lawful meeting, gathering, or procession by engaging in fighting, violence, threats of violence, or other unlawful behavior; or

b.) physically blocks, uses threats of violence to prevent any person from attending, listening to, viewing, or otherwise participating in a protected expressive activity.

The term “materially and substantially disrupts” shall not include conduct that is protected under the First Amendment to the United States Constitution or Article I, Section 4 of the Constitution of Alabama of 1901. Such protected conduct includes, but is not limited to, lawful protests and counter-protests in the outdoor areas of campus generally accessible to members of the public (except during times when those areas have been reserved in advance for other events), or minor, brief, or fleeting nonviolent disruptions of events that are isolated and short in duration.

6. **OUTDOOR AREAS OF CAMPUS.** The generally accessible outside areas of the campus of the University where members of the campus community are commonly allowed including, without limitation, grassy areas, walkways, and other similar common areas.

7. **PROTECTED EXPRESSIVE ACTIVITY.** Speech and other conduct protected by the First Amendment to the United States Constitution, or by Article 1, Section 4 of the Constitution of Alabama 1901 to the extent that the activity is lawful and does not significantly and substantially disrupt the functioning of the business or educational activity of the institution, or materially and substantially disrupt the rights of others to engage in or listen to the expressive activity, including all of the following:

a.) Communication through any lawful verbal, written, or electronic means.

b.) Participating in peaceful assembly.

c.) Peacefully protesting.

d.) Making speeches.

e.) Distributing literature.

f.) Making comments to the media.

g.) Carrying signs or hanging posters.

h.) Circulating petitions.

For purposes of this policy, the term “protected expressive activity” does not include commercial activity, or to expression that relates solely to the economic interests of the speaker and its audience and proposes an economic transaction.

8. **PUBLIC INSTITUTION OF HIGHER EDUCATION.** As defined in Section 16-5-1, Code of Alabama 1975, and as that term is used in Act 2019-396, Jacksonville State University is a “public institution of higher education.”

9. **President.** The term “President” shall refer to that person holding the Office of President of Jacksonville State University or otherwise exercising the functions of that office.

10. **STUDENT.** Any person who is enrolled in a class at the University.

11. **STUDENT ORGANIZATION.** An officially recognized group at the University or a group



seeking official recognition, composed of admitted students that receive or are seeking to receive benefits through the institution.

### **POLICY**

It is the policy of Jacksonville State University:

That the primary function of the institution is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate, and that, to fulfill that function, the institution will strive to ensure the fullest degree possible of intellectual freedom and free expression.

That it is not the proper role of the institution to shield individuals from speech protected by the First Amendment to the United States Constitution and Article I, Section 4 of the Constitution of Alabama of 1901, including without limitation, ideas and opinions they find simply unwelcome, disagreeable, or offensive.

That students, administrators, faculty and staff are free to take positions on public controversies and matters of public concern and to engage in protected expressive activity in outdoor areas of the campus, and to spontaneously and contemporaneously assemble, speak, and distribute literature.

That the outdoor areas of a campus of the University shall be deemed to be a forum for members of the Campus Community.

That there shall be no designated "free speech zones" whereby expressive activity is restricted to such an area to the exclusion of the remainder of the campus. No such "free speech zones" shall be created within the outdoor areas of the campus in order to limit or prohibit protected expressive activities.

That the campus of the University shall be open to any speaker whom the University's student organizations or faculty have invited, and the institution will make all reasonable efforts to make available all appropriate resources to ensure the safety of the campus community; and that the University will not charge "security fees" based on the protected expressive activity of the member of the campus community or the member's organization, or the content of the invited guest's speech, or the anticipated reaction or opposition of the listeners to the speech. Usual and customary fees commensurate with the facility utilized, the direct costs associated with the use of the venue, and fees related to preparation, maintenance and clean-up may be assessed provided they are not discriminatory, arbitrary or utilized to discourage appropriate use.

That the University shall not permit members of the Campus Community to engage in conduct that materially and substantially disrupts another person's protected expressive activity or infringes on the rights of others to engage in or listen to a protected expressive activity that is occurring in a location that has been reserved for that protected expressive activity. The material and substantial disruption of the protected expressive activity of another shall, if by a student, be a violation of the Student Code of Conduct, and if by a University employee, shall be deemed employee misconduct. Depending on the severity of the disruption caused, its intent and manner, a student may be subject to jurisdiction of the Office of Community Standards and Student Ethics which has the jurisdiction to impose a disciplinary sanction up to and including expulsion. Employees, including tenured and non-tenured faculty, may be subject to administrative disciplinary action up to and including termination. Disruptive conduct that violates state law may be subject to citation or arrest with prosecution in the Municipal Court of the City of Jacksonville or the state courts of Calhoun County.

That the University has the right and may maintain and enforce constitutional time, place, and manner restrictions for outdoor areas of campus when they are narrowly tailored to serve a significant institutional interest and when the restrictions employ clear, published, content-neutral, and viewpoint-neutral criteria, and provide for ample alternative means of expression. All restrictions shall allow for members of the university community to spontaneously and contemporaneously assemble and distribute literature.



That the University shall support free association and shall not deny a student organization any benefit or privilege available to any other student organization or otherwise discriminate against an organization based on the expression of the organization, including any requirement of the organization that the leaders or members of the organization affirm and adhere to an organization's sincerely held beliefs or statement of principles, comply with the organization's standard of conduct, or further the organization's mission or purpose, as defined by the student organization.

That the University should strive to remain neutral, as an institution, on the public policy controversies of the day, except as far as administrative decisions on the issues are essential to the day-to-day functioning of the institution, and that the University will not require students, faculty, or staff to publicly express a given view of a public controversy.

That the University shall prohibit harassment in a manner consistent with the definition provided in this act, and no more expansively than provided herein.

This policy shall supersede and nullify any prior provisions in the policies or parts of policies that restrict speech on campus and are, therefore, inconsistent with this policy. Any policy inconsistent with this policy, its letter or spirit, shall be revised to be consistent herewith.

Without unnecessary delay, the University shall include in the its student, faculty, and staff orientation programs a section describing to all members of the campus community the policy developed pursuant to this section, and shall disseminate this policy to all members of the campus community and make the policy available in their respective handbooks and on the JSU website.

The President shall cause to be prepared a document for the Board of Trustees to submit to the Governor and the Legislature a report that details the following:

- 1.) The course of action implemented to ensure compliance with the requirements of this act within 90 days after the effective date of this Act.
- 2.) Any changes or updates to the chosen course of action within 30 days after making the changes or updates.

On or before September 1 of each year, the President, on behalf of the Board of Trustees, shall prepare and disseminate a report for the prior 12-month period ending July 31, that includes all of the following:

- 1.) The date and description of each violation of the policy adopted pursuant to this Act.
- 2.) A description of the administrative handling and discipline relating to each violation described.
- 3.) A description of substantial difficulties, controversies, or successes in maintaining a posture of administrative and institutional neutrality.
- 4.) Any assessments, criticism, commendations, or recommendations the Board of Trustees sees fit to include.

The President shall cause the report to be published in a prominent location on the JSU.edu website and to submit a copy of the report to the Alabama Commission on Higher Education, which shall publish the report in a prominent location on its website and notify the Governor and the Legislature of its receipt of the report.


Nothing herein shall be construed to prevent Jacksonville State University from regulating and restricting speech, expression, or expressive activity that is not protected by the United States Constitution or the Constitution of Alabama of 1901, including, but not limited to, any of the following:

- 1.) Violations of state or federal law, including, but not limited to, actions that damage institutional property.
- 2.) Expressions that a court has deemed unprotected defamation.
- 3.) Harassment.

- 4.) True threats, which are defined as statements meant by the speaker to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.
- 5.) An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern.
- 6.) An action that unlawfully disrupts the function or security of the institution.

**BE IT FURTHER RESOLVED** that the President cause the same to be implemented in compliance with the mandates of Act 2019-396, Alabama Legislature, General Session 2019.

Adopted in Regular Open Meeting of the Board of Trustees on this June 23, 2020.

  
 Randall E. Jones  
 President *pro tempore* and Chairman

Attest:

  
 Don C. Killingsworth Jr.  
 President and Board Secretary

Trustee Smoke, Chair of the *AdHoc* Committee, presented the following Resolution for the Board's approval.

#### RESOLUTION 619

#### **RESOLUTION OF THE BOARD OF TRUSTEES APPOINTING DON C. KILLINGSWORTH JR. AS THIRTEENTH PRESIDENT OF JACKSONVILLE STATE UNIVERSITY**

**WHEREAS**, on October 22 2019, Dr. Don C. Killingsworth Jr. was unanimously appointed by the Board of Trustees as the *de facto* President of Jacksonville State University and granted the title of "Acting President"; and

**WHEREAS**, Acting President Killingsworth has provided exemplary service during his *de facto* tenure as President and has demonstrated the ability to lead the institution forward; and

**WHEREAS**, the Board desires to remove the *de facto* status of Acting President Killingsworth and elevate his status to that of *de jure* thereby bestowing upon him the title "President Don C. Killingsworth Jr." with all of the benefits and responsibilities of the office of President of Jacksonville State University; and

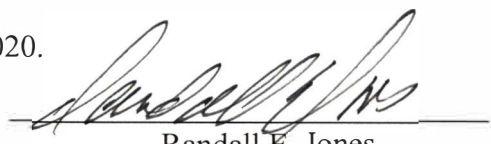
**WHEREAS**, the Board by this Resolution desires to appoint the said Don C. Killingsworth Jr., EdD, to the office of President of Jacksonville State University and proceed to negotiate an appropriate contract of employment in his capacity as such.

#### **NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:**

1. That Dr. Don C. Killingsworth Jr. be and he is hereby appointed to serve as the Thirteenth President of Jacksonville State University with all benefits and responsibilities associated with that Office; and
2. That an *Ad Hoc* Committee designated as the Board of Trustees Liaison Committee to the President consisting of Trustees Tony Smoke, who shall serve as Chairman, The Hon. Vivian Figures, Rusty Fuller, Greg Brown, and Tony Ingram is hereby appointed to negotiate an appropriate employment contract with an initial term not exceed three (3) years in length with President Killingsworth, which will be considered for adoption by the full Board at its regularly scheduled meeting on July 21, 2020.



Adopted in open meeting this the 23<sup>rd</sup> day of June 2020.

  
 Randall E. Jones  
 President *pro tempore* and Chairman

ATTEST:   
 Don C. Killingsworth, Jr., EdD  
 Board Secretary

**Trustee Smoke made a motion to remove “Acting” from the President’s title and make Dr. Don C. Killingsworth, Jr., the 13<sup>th</sup> President of Jacksonville State University.**

**Trustee Owen seconded the motion. The motion passed as follows:**


Ayes: 9

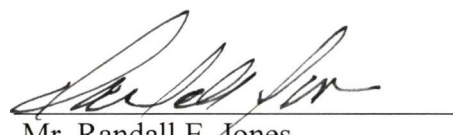
Nays: 1

Dr. Killingsworth received a standing ovation on his appointment as the 13<sup>th</sup> President of Jacksonville State University. He thanked the Board for having confidence in his ability and leadership to move this university forward. Dr. Killingsworth expressed his appreciation and gratitude for his wife and children, the administration, faculty, and staff.

#### ADJOURNMENT

There being no further business to come before the Board, Presiding Chair Jones declared that the meeting was adjourned and stated that the next meeting of the Board of Trustees would be held on Tuesday, July 21, 2020, at 9:00 am on the 5<sup>th</sup> Floor of Stadium Towers.

  
 Don C Killingsworth, Jr., Ed.D  
 President  
 Jacksonville State University

  
 Mr. Randall E. Jones  
 Chairman  
 Board of Trustees